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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

)	No. CV 09-00336 SOM-BMK
OKLEVUEHA NATIVE)	DEFENDANTS'
AMERICAN CHURCH OF HAWAII,)	SUPPLEMENTAL REPORT;
INC.,)	CERTIFICATE OF SERVICE
MICHAEL REX "RAGING BEAR")	
MOONEY,)	October 29, 2009
)	10:00 a.m.
Plaintiffs)	
)	
vs.)	
)	
ERIC H. HOLDER, JR., U.S.)	
Attorney General;)	
MICHELE LEONHART, Acting)	
Administrator, U.S. Drug)	
Enforcement Administration;)	
EDWARD H. KUBO, JR., U.S.)	

Attorney for the District of Hawaii,

Defendants

DEFENDANTS' SUPPLEMENTAL REPORT

Pursuant to Local Rule 26.1 of the District of Hawaii, Defendants submit this Supplemental Report regarding the early meeting of counsel to provide additional information and note differences between the report filed by Plaintiffs on October 5, 2009 (dkt. no. 7), and the recollection and notes of defendants' counsel.

The early meeting of counsel was held by telephone on September 25, 2009, and September 29, 2009. Michael A. Glenn participated on behalf of Plaintiffs Oklevueha Native American Church of Hawaii, Inc., and Michael Rex Mooney. James C. Luh participated on behalf of Defendants.

(1) **Initial Disclosures.** During the early meeting of counsel, the parties did not discuss exchanging initial disclosures on October 12, 2009. Rather, the parties agreed to postpone initial disclosures until 30 days after the filing of Defendants' answer. Defendants do not agree to any departure from the agreement reached during the early meeting of counsel. As explained further below, Defendants believe that postponing initial disclosures is appropriate in light of substantial issues regarding this Court's jurisdiction and is in the interest of judicial economy.

(2) **Discovery.** Defendants intend to file a motion no later than October 23, 2009, seeking dismissal of all claims and all parties in this action on both jurisdictional and merits grounds. Defendants anticipate that this motion will terminate the case. Because Defendants' motion presents substantial jurisdictional issues, and because even if the motion is denied in part, the Court's resolution of the motion will likely resolve some of the issues in dispute in this case, Defendants believe that the Court should postpone discovery and other pretrial and trial proceedings until after the Court resolves defendants' motion to dismiss.

If this case proceeds to discovery, Defendants anticipate seeking discovery into the Plaintiffs' religious beliefs; the Plaintiffs' religious practice; the history of the Plaintiffs' drug activities (including religious and nonreligious activity); and the Church's origins, activities, and funding. The Plaintiffs indicated during the early meeting of the parties that they intend to seek discovery into the alleged seizure of cannabis described in Plaintiffs' complaint and will seek to depose policymaking officials.

Defendants believe that dates for pretrial and trial proceedings should be set in the ordinary course. Neither party seeks any change at this time to the limits on discovery set forth by the Federal Rules of Civil Procedure. Defendants may seek a protective order for law enforcement information or Privacy Act information at a later stage.

(3) Other.

Trial date: Dates for pretrial and trial proceedings should be set in the ordinary course.

Settlement: Due to the nature of the relief Plaintiffs are seeking in this suit, Defendants believe that settlement is unlikely and mediation is unlikely to be productive. However, Defendants have indicated to Plaintiffs that they are willing to entertain settlement proposals from the Plaintiffs.

Date: October 9, 2009

Respectfully submitted,

TONY WEST
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